

Colorado Legislative Council Staff

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 03-0636

Date: February 6, 2003

Prime Sponsor(s): Rep. Rose

Bill Status: House Information and Technology

Fiscal Analyst: Steve Tammeus (303-866-2756)

TITLE: CONCERNING THE ADDITION OF A NO-SOLICITATION LIST TO THE "COLORADO JUNK E-MAIL LAW".

Fiscal Impact Summary	FY 2003/2004	FY 2004/2005
State Revenues		
General Fund		>\$10,000
State Expenditures		
General Fund	\$220,735	\$267,329
FTE Position Change	1.0 FTE	4.0 FTE
Other State Impact: Future TABOR Impact		
Effective Date: Upon signature of the Governor.		
Appropriation Summary for FY 2003/2004: Department of Law - \$220,735 and 1.0 FTE - General Fund		
Local Government Impact: Local governments may incur costs to enforce the provisions of this bill.		

Summary of Legislation

This bill amends the "Colorado Junk E-mail Law" by establishing the Colorado No-Spam List Program, and requiring the Public Utilities Commission to administer the program to establish a database to use when verifying residential subscribers in the state who have given notice of objection to receiving unsolicited commercial e-mail messages.

The bill requires the Commission, by January 1, 2004, to contract with a designated agent to maintain an Internet website and database containing the Colorado No-Spam List. The bill requires the agent to develop and implement the website by July 1, 2004. The bill requires the Commission to promulgate rules by April 1, 2004, governing costs to subscribers, registration fees to be paid by persons who wish to send unsolicited commercial e-mail messages, methods for residential subscribers to subscribe, information to be provided on the website, the use of subscriber information, and a subscriber complaint system.

In the event a federal agency establishes a similar Internet website database, the bill requires the agent to incorporate the portion of the federal database that pertains to Colorado in the Colorado No-Spam List. The bill requires the agent to update the database on an on-going basis, effective July 1, 2004.

Effective July 1, 2004, violation of provisions of the bill constitutes a deceptive trade practice under the Colorado Consumer Protection Act, however, no state enforcement actions may be taken for fewer than three violations per month. The bill specifies certain conditions that may not be considered a violation. The bill authorizes the Commission to accept and expend moneys from gifts, grants, and donations to administer the program.

State Revenues

The Colorado Consumer Protection Act (CCPA) prescribes a civil penalty, payable to the state General Fund, of not more than \$2,000 for each violation of the Act; and of not more than \$100,000 for any series of violations. The CCPA also prescribes a civil penalty, payable to the state General Fund, of not more than \$10,000 for each violation of a court order pursuant to the Act.

State Expenditures

Department of Regulatory Agencies. The Public Utilities Commission and the Office of Consumer Counsel will be able to develop, implement, and administer the program within existing budgetary resources.

Judicial Branch. No cases have been filed to date under the provisions of the current "Colorado Junk E-mail Law". This bill will increase the opportunity for additional civil cases to be filed.

Department of Law. The Office of the Attorney General and the district courts of the state are concurrently responsible for the enforcement of the Colorado Consumer Protection Act. The Attorney General is authorized to take necessary actions, including issuing subpoenas, conducting hearings, and promulgating rules to administer the provisions of the Act. Table 1 provides a summary of the department's General Fund expenditures to support the provisions of this bill, based upon the following assumptions:

- the department will incur start-up costs during FY 2003-04 to be able to enforce the provisions of the bill effective July 1, 2004;
- the bill does not provide a means for the department to recover start-up and operating costs from the agent;
- due to the fact the department experienced over 15,000 consumer complaints and 180 enforcement actions during the first six months after the telemarketing no-call law became effective, the amount of consumer complaints to be generated by the Junk E-mail Law is anticipated to be significant;
- the department will require additional personal services and custom computer systems specific to investigating and enforcing Internet e-mail violations.

Table 1. Department of Law Expenditures per HB 03-1200		
	FY 2003/2004	FY 2004/2005
<u>Personal Services</u>		
Legal Asst	0	1.0 FTE - \$38,316
IT Prof IV	1.0 FTE - \$56,892	2.0 FTE - 113,784
Asst Atty Gen I	0	<u>1.0 FTE - 66,894</u>
Subtotal	56,892	218,994
PERA/Medicare	<u>6,599</u>	<u>25,403</u>
Total	63,491	244,397
Operating Expenses	1,200	4,800
IT Hardware/Software	150,000	0
Computer/Office Furniture	6,044	18,132
Total Expenses	1.0 FTE - \$220,735	4.0 FTE - \$267,329

Local Government Impact

Actions instituted pursuant to the Colorado Consumer Protection Act (CCPA) may be brought in the county where an alleged deceptive trade practice occurred or where any portion of a transaction involving an alleged deceptive trade practice occurred, or in the county where the principal place of business of any defendant is located, or in the county in which any defendant resides. At the local level, district attorneys may be responsible for the enforcement of the CCPA. Under current law, county district attorneys' salaries are funded 80 percent state and 20 percent county. The remaining administrative and personal services costs of each district attorney's office are funded by the county. Additional local government costs may be incurred to enforce the provisions of this bill. The CCPA does not prescribe a jail sentence as a penalty.

State Appropriations

The Department of Law will require a General Fund appropriation of \$220,735 and 1.0 FTE for FY 2003-04.

Departments Contacted

Judicial Law Regulatory Agencies